

No.

CR 10 00931 LHK
SEALED BY ORDER
OF COURT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

2010 DEC 22 P 1:32

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. OF CALIFORNIA

THE UNITED STATES OF AMERICA

VS.

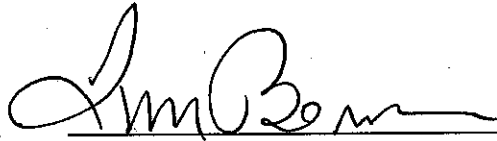
CLAY H. ROJAS, WILLIAM "BILLY" BETTENCOURT,

and VIVIANA V. RODRIGUEZ

INDICTMENT

SEE ATTACHMENT

A true bill.



Foreperson

Filed in open court this 22 day of Dec. 2010

A.D. 2010



UNITED STATES MAGISTRATE JUDGE

Bail. \$ no bail arrest warrant

DOCUMENT NO	CSA'S INITIALS
<u>1e</u>	
DISTRICT CLERK	

**ATTACHMENT TO INDICTMENT COVER
U.S.**

v.

**CLAY H. ROJAS, WILLIAM "BILLY" BETTENCOURT,
and VIVIANA V. RODRIGUEZ,**

COUNT ONE: 18 U.S.C. § 1349-Conspiracy to Commit Honest Services Fraud. (All Defendants)

COUNT TWO THROUGH SIX: 18 U.S.C. §§ 1343 and 1346- Honest Services Fraud,
18 U.S.C. § 2-Aiding and Abetting. (Bettencourt and Rojas)

MELINDA HAAG (CABN 132612)
United States Attorney

FILED

2010 DEC 22 P 1:32

SEALED BY ORDER
OF COURT

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CA - SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

CLAY H. ROJAS,
WILLIAM "BILLY" BETTENCOURT, and
VIVIANA V. RODRIGUEZ,

Defendants.

CR10 00931

LHK

PSG

VIOLATIONS: 18 U.S.C. § 1349 –
Conspiracy to Commit Honest Services
Fraud; 18 U.S.C. §§ 1343 and 1346 –
Honest Services Fraud; 18 U.S.C. § 2 –
Aiding and Abetting

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 1349 – Conspiracy to Commit Honest Services Fraud)

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Clay H. Rojas was an officer of the Santa Clara Police Department. As a sworn peace officer, Rojas owed a duty to provide honest services to the Santa Clara Police Department and to the taxpayers of the City of Santa Clara.

2. William "Billy" Bettencourt was affiliated with the Hells Angels Motorcycle Club, in its Santa Cruz chapter. Bettencourt's affiliation changed from prospect to member of

INDICTMENT

1 the Hells Angels in August 2010. Bettencourt lived and worked in the Northern District of
2 California.

3 3. Viviana V. Rodriguez was a coworker and associate of Bettencourt.

4 B. THE OBJECTS OF THE CONSPIRACY

5 4. Beginning on a date unknown to the Grand Jury, but no later than July 9, 2010,
6 and continuing until October 14, 2010, in the Northern District of California, and elsewhere, the
7 defendants,

8 CLAY H. ROJAS,
9 WILLIAM "BILLY" BETTENCOURT, and
VIVIANA V. RODRIGUEZ,

10 did knowingly conspire and agree with each other to execute, and to attempt to execute, a
11 material scheme and artifice to defraud the People of the City of Santa Clara, California, and the
12 Santa Clara Police Department of the intangible right to the honest services of Rojas, and, for the
13 purpose of executing such scheme and artifice and attempting to do so, did knowingly transmit,
14 and cause to be transmitted, by wire and radio communications in interstate commerce, certain
15 writings, signs, signals, pictures, to wit, SMS text messages, in violation of Title 18, United
16 States Code, Sections 1343 and 1346.

17 **The Scheme to Defraud**

18 5. The scheme consisted of Rojas providing confidential law enforcement
19 information to Bettencourt in exchange for Bettencourt's forbearance on a debt Rojas owed to
20 him. Rojas provided confidential criminal history and motor vehicle information to Bettencourt
21 in exchange for extensions of time to repay Rojas' debt to Bettencourt. For her part, Rodriguez
22 asked Bettencourt to obtain certain confidential criminal history and motor vehicle information
23 for her, knowing when she did so that the information she was requesting was restricted, that
24 Bettencourt was not entitled to obtain it, and therefore that any effort by him to do so on her
25 behalf would necessarily be by unlawful means.

26 C. THE MANNER AND MEANS OF THE CONSPIRACY

27 6. The objects of the conspiracy were carried out, in substance, as follows:

28 a. Rojas was employed by the Santa Clara Police Department as a sworn

peace officer. In that capacity, Rojas had access to certain computer databases that contained information regarding individuals' criminal histories, active arrest warrants, and driver's license information, including motor vehicle registration and addresses. Access to these databases, and the use of the information contained therein, was restricted to official users acting within the scope of their official duties.

b. On a number of occasions, beginning no later than July 9, 2010, Rojas, acting at the request of Bettencourt, used those databases, and caused other persons to use them, to retrieve confidential criminal history and motor vehicle information as to specific persons and license plate numbers. Rojas then provided that information to Bettencourt. Bettencourt was not authorized to obtain or receive confidential law enforcement or motor vehicle information.

c. Rodriguez knowingly participated in the scheme by requesting confidential criminal history and motor vehicle information from Bettencourt. Rodriguez requested that information knowing full well that Bettencourt was not legally allowed to obtain it, and only after Rodriguez had tried and failed to obtain the information using lawful means.

d. Bettencourt induced Rojas to obtain confidential criminal history and motor vehicle information by giving Rojas money in the form of a “loan.” Bettencourt then requested and received confidential information from Rojas, in lieu of money, in return for an extension on repaying that financial obligation.

Interstate Nexus

7. The computer databases accessed or caused to be accessed by Rojas were through the California Law Enforcement Telecommunications System (CLETS), or Santa Clara Law Enforcement Telecommunication System (SLETS). The databases accessed through CLETS/SLETS included systems maintained in Sacramento by the California Department of Justice, including (1) California Department of Motor Vehicles (CA DMV), (2) Wanted Person System (WPS), (3) local databases maintained in Santa Clara County, such as Criminal Justice Information Control (CJIC), and Alameda County Warrant System (AWS), among others, as well as (4) the National Crime Information Center (NCIC), a database maintained by the FBI as part of the Criminal Justice Information System (CJIS) maintained in Clarksburg, West Virginia.

INDICTMENT

8. The defendants communicated, among other ways, through Short Message System (SMS) text messaging. SMS text messaging allows users to send and receive text messages of up to 160 alphanumeric characters on a handset. Those messages are delivered using radio waves transmitted over an interstate cellular network facility.

9. Bettencourt subscribed to cellular telephone service through the AT&T cellular network, which has its SMS servers in the State of Washington. As a result, any SMS text message sent to or from Bettencourt in California would cause a radio communication to be transmitted between the states of California and Washington.

All in violation of Title 18, United States Code, Sections 1349, 1343, and 1346.

COUNTS TWO THROUGH SIX: 18 U.S.C. §§ 1343 and 1346 – Honest Services Fraud, 18 U.S.C. § 2 – Aiding and Abetting

10. The factual allegations set forth in paragraphs one through nine are realleged and incorporated as if fully set forth here.

11. Beginning on a date unknown to the Grand Jury, but no later than July 9, 2010, and continuing until October 14, 2010, in the Northern District of California and elsewhere, the defendants named in each of counts Two through Six below, having devised and intending to devise a material scheme and artifice to defraud the People of the City of Santa Clara, California, and the Santa Clara Police Department of the intangible right to the honest services of Rojas, did, for the purpose of executing said scheme and artifice, knowingly transmit, and cause to be transmitted, by means of wire and radio communications in interstate commerce, the wire and radio communications identified below:

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INDICTMENT

COUNT	DATE	DEFENDANTS	WIRE or RADIO COMMUNICATION
Two	7/9/2010	Bettencourt Rojas	Query sent from California using the National Crime Information Center (NCIC) for criminal history information regarding Bettencourt.
Three	8/16/2010	Bettencourt Rojas	SMS text message using AT&T from Bettencourt to Rojas stating, "\$?"
Four	8/19/2010	Bettencourt Rojas	SMS text message using AT&T from Bettencourt to Rojas stating, "I'm done. Can u r my name and check status? Yhank u."
Five	8/19/2010	Bettencourt Rojas	SMS text message using AT&T from Rojas to Bettencourt stating, "2005 chrysler registered to [S.W.] out of Sacramento."
Six	9/3/2010	Bettencourt Rojas	Query sent from California using the National Crime Information Center (NCIC) for criminal history information regarding person identified in this indictment by the initials, C.C.

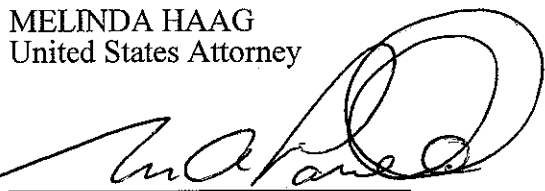
All in violation of Title 18, United States Code, Sections 1343 and 1346, and
18 U.S.C. § 2.

DATED: 12-22-10

A TRUE BILL.


FOREPERSON

MELINDA HAAG
United States Attorney


DAVID R. CALLAWAY
Chief, San Jose Branch

(Approved as to form: )
AUSA DANIEL R. KALEBA

INDICTMENT

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT ☐ SUPERSEDING

OFFENSE CHARGED

Count One: 18 U.S.C. § 1349-Conspiracy to Commit Honest Services Fraud
 Count Two Through Six: 18 U.S.C. §§ 1343 and 1346- Honest Services Fraud, 18 U.S.C. § 2-Aiding and Abetting.

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: 20 years imprisonment per count
 \$250,000 fine
 3 years supervised release
 \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

2010 DEC 22 SAN JOSE DIVISION

DEFENDANT - U.S.

CLAY H. ROJAS

DISTRICT COURT NUMBER

00931

PSG

LHK

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

S/A Scott Medeiros, FBI

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

AUSA DANIEL KALEBA

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.
 1) ☒ If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction

☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

Δ1

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

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 \$250,000 fine
 3 years supervised release
 \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

2010 DEC 22 P 1:33

DEFENDANT - U.S.

WILLIAM "BILLY" BETTENOUR

DISTRICT COURT NUMBER

00931

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

1) ☒ If not detained give date any prior summons was served on above charges

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Month/Day/Year

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☒ U.S. Attorney ☐ Other U.S. Agency

Name and Office of Person

Furnishing Information on this form Melinda Haag

Name of Assistant U.S. Attorney (if assigned)

AUSA DANIEL KALEBA

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Before Judge:

Comments:

12

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BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

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NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

VIVIANA V. RODRIGUEZ

DISTRICT COURT NUMBER

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Name of Complainant Agency, or Person (& Title, if any)

S/A Scott Medeiros, FBI

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DOCKET NO.

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CASE NO.

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☐ This report amends AO 257 previously submitted

Name and Office of Person

Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) AUSA DANIEL KALEBA

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Defendant Address:

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Date/Time:

Before Judge:

Comments: